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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,895

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Melchor Daumal Castellon

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EXAMINER

KELLY, CATHERINE A

ART UNIT

PAPER NUMBER

3634

MAIL DATE

DELIVERY MODE

04/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/533,895	Applicant(s) DAUMAL CASTELLON, MELCHOR	
	Examiner CATHERINE A. KELLY	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/5/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Clarifications

It is not clear if applicant is invoking 35 USC 112 paragraph 6. Examiner notes from Chapter 2100 of the current MPEP, section 2181:

A claim limitation will be interpreted to invoke 35 U.S.C. 112, sixth paragraph if it meets the following 3-prong analysis:

- (A) the claim limitations must use the phrase "means for " or "step for ";*
- (B) the "means for " or "step for " must be modified by functional language; and*
- (C) the phrase "means for " or "step for " must not be modified by sufficient structure, material or acts for achieving the specified function.*

With respect to the first prong of this analysis, a claim element that does not include the phrase "means for" or "step for" will not be considered to invoke 35 U.S.C. 112, sixth paragraph. If an applicant wishes to have the claim limitation treated under 35

U.S.C. 112, sixth paragraph, applicant must either: (A) amend the claim to include the phrase "means for" or "step for" in accordance with these guidelines; or (B) show that even though the phrase "means for" or "step for" is not used, the claim limitation is written as a function to be performed and does not recite sufficient structure, material, or acts which would preclude application of 35 U.S.C. 112 , sixth paragraph.

Since explicit structure is claimed "protrusion formed around the hole.." , examiner is considering the claims to include any structure capable of performing the function.

Appropriate clarification is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

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applicant regards as the invention. Claims 6 and 7 state a concave or convex protrusion. This statement is contradicted by the specification on page 5 and the drawings figures 3 and 4 which show a convex and concave washer respectively. Given that both specification and drawings are for convex/concave washer, examiner assumes washer was intended in the claims as well. A clarification is requested.

Claim Rejections - 35 USC § 103

Claims 1, 2, and 5- 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent 6425204 in view of US patent 4442632. The '204 reference shows the adjustable rail of claim 1 in figure 7 where the rail is reference numeral 10, door base 20, protrusion 300, fixing means or screw 55, and sliding block or nut 59. However, the '204 reference does not show the screw and nut paired with a washer. This is shown in the '632 reference in figure 3 where screw 44 has nut 46 and washer 47. It would have been obvious to one of ordinary skill in the art at the time of invention as the use of washers with screws and nuts was known in the art at the time. One of ordinary skill would be motivated to combine because the benefits of washers were known in the art at the time, such as increasing the stability of the fastening (the fastener remains fastened longer) and decreasing the wear on parts.

Regarding claim 2, the protrusion 300 shown in figure 7 of the '204 reference is drawn in the rail itself.

Regarding claim 5, the protrusion 300 shown in figure 7 of the '204 reference is round in shape.

Regarding claims 6 and 7, the '204 reference shows a shaped nut in figure 7 reference numeral 59. The shaped nut is equivalent to the convex shaped washer in that it performs the same function and mates with the protrusion and screw and it would be mere change in shape to use a concave washer instead, see MPEP 2144.04 IV section B. It would have been obvious to one of ordinary skill in the art as shaped fasteners were known in the art at the time. One of ordinary skill would be motivated to combine because the shaped washer can provide easier adjustment in convex state of increased adjustment in concave with no manufacturing design changes, only a parts change which is always desirable in the art.

Regarding claim 8, the fastening are with protrusion 300 shown in figure 7 of the '204 reference is shown at the upper end of rail 10.

Regarding claim 9, the dual diameter screw is shown in the '632 reference in figure 4 reference numeral 84. It would have been obvious to one of ordinary skill in the art at the time as dual diameter screws were known in the art at the time. One of ordinary skill would be motivated to combine because the dual diameter screw allows for increased adjustment with no change in manufacturing design, only in the screw part itself, which will be lower cost which is always desirable in the art.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6425204 and US 4442632 as applied to claim 1 above, and further in view of US patent 3844064. Neither the '204 nor the '632 reference show the separate protrusion of claim 3. This is shown in the '064 reference in figure 1 where separate protrusion, unnumbered, mates with adjustment screw 22. Also, making a part separable is

obvious, see MPEP 2144.04 V section C. It would have been obvious to one of ordinary skill in the art at the time. One of ordinary skill would be motivated to combine because of manufacturing factors such as cost of labor, cost of parts, amount of machining needed, etc....

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6425204 and US 4442632 as applied to claim 1 above, and further in view of US patent 5038519. Neither the '204 nor the '632 reference shows the elastic washer protrusion of claim 4. The equivalent of this is shown in the '519 reference in figures 2, 3, and 5 where reference numeral 60 is a spring washer. The spring washer is equivalent to the elastic washer in that both allow for movement or adjustability. It would have been obvious to one of ordinary skill in the art at the time of invention as spring and elastic washers were known in the art at the time. One of ordinary skill in the art would be motivated to combine because the use of an elastic washer allows for adjustment of the rail and therefore a more flexible assembly and therefore a better fitting of parts which is always desirable in the art.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over US 6425204 and US 4442632 as applied to claim 9 above, and further in view of US patent 2818251. Neither the '204 nor the '632 reference shows the spring nut of claim 10. The spring nut/lock washer is taught in the '251 reference in column 5 lines 11-13. It would have been obvious to one of ordinary skill in the art at the time as spring nut/lock washers were known in the art at the time. One of ordinary skill would be motivated to

combine because the ability of the spring nut/lock washer to increase the stability of the fastener (fastener remains fastened longer) were known in the art at the time.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CATHERINE A. KELLY whose telephone number is (571)270-3660. The examiner can normally be reached on Monday through Friday 8am - 4:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Mitchell can be reached on 571-272-7069. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/C. A. K./
Examiner, Art Unit 3634

/KATHERINE W MITCHELL/
Supervisory Patent Examiner, Art
Unit 3634

cak